Department of Legislative Services

Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 1235 (Delegate Roberts, *et al.*)
Government, Labor, and Elections

State Procurement - Competitive Sealed Bids and Proposals - In-State Evaluation Preference

---

This bill establishes standardized criteria for evaluating bids and proposals submitted in response to State procurements requiring competitive sealed bids or proposals. A procurement officer must award the procurement contract to the responsible bidder or offeror who submits the responsive bid or proposal that is most favorable or advantageous to the State under the standardized evaluation criteria established by the bill, which give greater weight to economic factors than they do to price. The bill also requires bidders and offerors to submit additional information about the State and local economic impact of their bids or proposals.

Fiscal Summary

State Effect: Expenditures (all funds) increase significantly beginning in FY 2027 as a result of increased costs for most State procurements. However, a reliable estimate is not feasible, as discussed below. Expenditures (all funds) also increase beginning in FY 2027 for agencies to hire additional staff and contractors to train procurement staff, evaluate procurement offers and proposals, and handle bid protests. However, a reliable estimate is not feasible without experience under the bill. The bill likely extends procurement timelines. No effect on revenues.

Local Effect: None. The bill affects only State government operations.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill establishes evaluation criteria that agencies must use to grade competitive sealed bids or proposals on a scale of 100 points, unless otherwise required by federal law:

- a maximum of 40 points may be awarded for the technical merit of the bid, including (1) the quality of the proposed methods of performing the contract; (2) the technical capability of the bidder or offeror; (3) the staffing and qualifications of the bidder or offeror; and (4) the bidder's or offeror's compliance with the scope and specifications included in the invitation for bids (IFBs) or request for proposals (RFPs);
- a maximum of 30 points may be awarded for the State and local economic impact of the bid, including (1) the bidder or offeror having its principle place of business in the State; (2) the percentage of the bidder's or offeror's workforce employed in the State; (3) the use of State-based subcontractors; (4) the expected State and local taxes that will be generated from performance of the contract; and (5) the amount of the bidder's or offeror's capital investment and reinvestment in the State;
- a maximum of 20 points may be awarded for the total cost of the bid; and
- a maximum of 10 points may be awarded for (1) prior performance of contracts with the State and local governments and (2) the timeliness, quality of work performed, and compliance history of the bidder or offeror on any prior contracts with the State or local governments.

This evaluation criteria must be included in all IFBs or RFPs.

The bill also requires a responsive bid or proposal for a competitive sealed bid or proposal to include a statement with:

- the percentage of State-based employees who will perform the contract;
- the anticipated State-based subcontractors that will be utilized in the performance of the contract;
- the estimated State and local taxes that will be generated from the performance of the contract;
- the number of jobs that will be created or retained in the State from the performance of the contract; and
- any location where the contract will be performed.

Current Law:

Competitive Sealed Bids

Whenever a procurement is based on competitive sealed bids, a procurement officer must issue an IFB that must include, in addition to details about the procurement, whether the procurement contract will be awarded based on the lowest bid price, the lowest evaluated bid price, or for procurements that generate revenue for the State but involve no expenditures, the bid most favorable to the State. If a procurement officer determines that an initial preparation of specifications for price bids is impracticable, the IFB may include a request for unpriced technical offers or samples and direct bidders to submit price bids (1) with the unpriced technical offers or samples or (2) after the unit evaluates the technical offers or samples and finds that they are acceptable under the criteria set forth in the IFB.

An agency must give public notice of an IFB at least 10 days before bid opening and must publish notice in eMaryland Marketplace (eMM) at least 20 days before bid opening if (1) the procurement officer reasonably expects bid prices to exceed the small procurement amount or a lower amount set in regulation by the Board of Public Works (BPW) and (2) at least part of the procurement contract is to be performed in the State or District of Columbia. A procurement officer must open bids in public at the time and place designated in the IFB as well as announce, record, and post the name and amount for each bidder. After bid opening, a bid is irrevocable unless correction or withdrawal of the bid is allowed under regulations and approved in writing by the Office of Attorney General (OAG).

After obtaining any approval required by law, the procurement officer must award the contract to the responsible bidder that submits a responsive bid with the lowest price, the lowest evaluated price (if provided in the IFB), or, for specified projects, the bid most favorable to the State. If, after bids are opened, the procurement officer determines that only one responsible bidder submitted a responsive bid, the unit may negotiate the contract with that bidder in accordance with the procedures for sole source procurements.

If revised bids are required, the procurement officer must issue an invitation for revised bids. After the revised bids are opened and any approval required by law is obtained, the procurement officer must award the contract to the responsible bidder that submits a responsive bid with the lowest price, the lowest evaluated price (if provided in the IFB), or, for specified projects, the bid most favorable to the State.

Within 30 days of executing and approving a procurement contract in excess of the small procurement amount or a lower amount set in regulation by BPW, a unit must publish notice of the award on eMM.

Competitive Sealed Proposals

Competitive sealed proposals is the preferred method of procurement for (1) human, social, cultural, or educational services and (2) security services with an expected value of over $1 million. Whenever a procurement is based on competitive sealed proposals, a procurement officer must issue an RFP that must include, in addition to details about the procurement, the factors, including price, that will be used in evaluating proposals and the relative importance of each factor. An agency must publish RFPs in the same manner as required for an IFB.

After receipt of proposals but before the procurement officer awards the procurement contract, an agency may conduct discussions with an offeror to obtain the best price for the State and ensure full understanding of the proposal as well as the requirements of the State as established in the RFP. If discussions are conducted, the agency:

- must conduct the discussions in accordance with regulations;
- must provide an opportunity to participate to each responsible offeror who submits a proposal that, in the judgment of the procurement officer, is reasonably susceptible of being selected for award;
- must treat all of those responsible offerors fairly and equally;
- may allow all of those responsible offerors to revise their initial proposals by submitting best and final offers, if discussions indicate that it would be in the best interests of the State to do so;
- may conduct more than one series of discussions and requests for best and final offers; and
- may not disclose to an offeror any information derived from a proposal of or discussions with a competing offeror.

Oral presentations in response to an RFP are required when (1) the total value of the contract is expected to exceed $2 million for architecture and engineering services; (2) the total value of the contract is expected to exceed $10 million for construction and construction-related services; or (3) for any other procurement, including information technology and professional services, the total value of the contract is expected to exceed $5 million. If the procurement officer makes a written determination that oral presentations are unlikely to aid in the evaluation process, oral presentations are not required. Proposals are irrevocable after they are made unless correction or withdrawal of the proposal is allowed under regulations and approved in writing by OAG.

After obtaining any approval required by law, the procurement officer must award the procurement contract to the responsible offeror who submits the proposal or best and final offer determined to be the most advantageous to the State considering the evaluation factors set forth in the RFP.

Under the Code of Maryland Regulations (COMAR), the evaluation of proposals (but not bids) may include a numerical rating system, but it is not required. If offers are reasonably expected to exceed $50,000 and a point system is used in the evaluation of proposals, COMAR allows up to 10% of the total allocable technical points to be awarded under an economic-benefits evaluation factor. If a point system is not used, an economic-benefits evaluation factor may be included in the technical evaluation factors and be ranked in its relative order of importance, as the procurement officer determines. Offerors may receive up to half of the total allocable points under an economic-benefits evaluation factor for other elements directly or indirectly attributable to the contract that contribute to the Maryland economy. Procurement officers may ask contractors to demonstrate in their proposal how the contract will benefit the Maryland economy, and the economic-benefits evaluation factor may include consideration of (1) the offeror's intended procurements from Maryland subcontractors, suppliers, and joint venture partners; (2) the number of jobs generated for Maryland residents; (3) tax revenues generated to Maryland and its political subdivisions; and (4) the amount or percentage of subcontractor dollars place with Maryland small businesses and minority-business enterprises. Factors not specified in the RFP cannot be considered.

An agency must publish notice of a contract in accordance with requirements for competitive sealed bids.

State Expenditures:

Effects on Costs of Procurements

The operational and fiscal effects of this bill are wide-ranging and varied. At its core, the bill proposes a shift away from a procurement system that focuses primarily on price (or, in the case of competitive sealed proposals, at least treats price as a primary factor) toward one that gives equal or greater weight to other considerations, including economic benefit factors. Because price may account for only 20% of a bidder's or offeror's evaluation score, the selected bidder or offeror will likely often not be the bidder or offeror offering the lowest price. Although such an outcome is not uncommon in the case of competitive sealed proposals, it almost never happens in the case of competitive sealed bids. As a result, State expenditures are likely to increase, potentially significantly, for procurements that previously relied solely on price as the basis for contract award. Because competitive sealed bidding and competitive sealed proposals are the State's most commonly used procurement methods, the bill could affect the cost of a broad range of contracts.

In addition to the potential for higher costs resulting from the bill's shift away from price as the primary consideration, the bill may also reduce competition. Businesses that believe they are at a disadvantage because they do not satisfy many of the economic benefit factors included in the evaluation score (*e.g.*, out-of-State firms) may choose not to submit a bid or proposal. A reduction in the number of bids or proposals would decrease competition, which has been shown to lead to higher contract costs. This concern may be especially relevant for businesses that do not meet criteria that could improve an evaluation score, such as having a principal place of business in the State, employing a higher percentage of their workforce in the State, or having prior experience performing a State contract. The requirements for bidders and offerors to provide specific State and local economic impact data may have a similar effect. Contractors – particularly small businesses – may not be willing or able to provide this required information and instead decide not to submit a bid, which can lead to increased costs of contracts. The Maryland Department of Transportation advises that even many Maryland-based vendors choose not to submit economic benefit information and statements under current proposal guidelines, which would likely result in them being deemed unresponsive and ineligible for contract award under the bill.

The bill also removes the discretion that procurement officers currently have under the competitive sealed proposals process to assign different weights to the evaluation factors used for a procurement. In many cases, price may be the most significant and appropriate factor. In other cases, however, the nature of the procurement may warrant placing greater weight on other factors in a way the bill does not permit. For example, if a procurement officer anticipates significant variation in quality among similar products, the officer may wish to place greater emphasis on quality. Under the bill, however, technical merit may account for only 40% of the total evaluation score. To the extent that this scoring structure results in the State purchasing lower-quality equipment that deteriorates more quickly, State expenditures could increase due to the need for more frequent repairs or earlier replacement than would otherwise have been necessary. Additionally, in procurements that are for human or social services, such as a healthcare service, a framework that weighs economic geography more heavily than cost, and potentially comparably to technical merit, may not produce optimal outcomes for individuals affected by the procurement.

Because the bill establishes numerous evaluation factors that may influence contract award and because it is not known how businesses will react to the changes in evaluation of procurement, a reliable estimate for all of these potential increases in expenditures is not feasible. However, given the scope of changes and the number of procurements that will be impacted by the bill, this increase is expected to be significant.

Administrative and Operational Effects

The bill would also have meaningful administrative and operational effects on agencies. To ensure consistency across all procurements, agencies will need to develop evaluation standards, rating rubrics, and documentation protocols for assessing bids and proposals based on the requirements of the bill. Extensive training of procurement officers on how to evaluate bids based on the new evaluation standards is likely. Furthermore, since price is no longer the sole determining factor for sealed bids under the bill, procurement officers will need to determine an evaluation score for each bid from contractors. This may require scoring of technical merit and prior performance, compilation and verification of economic impact statements, and documented scoring narratives, all of which may significantly increase the time it takes for a procurement officer to process a single procurement; possibly extending the timeline by weeks or even months. All of these impacts may create a need for more staff to work on procurements and possible contractual services to initially help set up a system where the scores of each bid or proposal can be tracked. However, a reliable estimate of these expenditures is not feasible without experience under the bill.

Finally, by requiring the use of evaluation factors beyond price (such as technical merit, State and local economic impact, and prior performance) the bill may make the award process more vulnerable to bid protests from unsuccessful offerors. Because some of these factors are inherently more subjective and less easily quantified, agencies may face greater scrutiny of their scoring decisions. Any increase in bid protests could further delay procurement timelines and raise administrative costs as agencies devote additional time and resources to defending award determinations.

Small Business Effect: Small businesses may experience both benefits and drawbacks under the bill. On the positive side, the inclusion of a 30-point State and local economic impact factor that considers a business's location, the extent of its in-State workforce, and its use of Maryland-based subcontractors could significantly benefit Maryland small businesses competing against larger out-of-state firms. At the same time, the requirement to include detailed economic information in a bid or proposal, including projected State and local tax generation and the amount of capital investment and reinvestment in the State, may not be practical for some small businesses, which often have fewer administrative and financial resources available to produce that information. To the extent that small businesses view these requirements as too burdensome and choose not to submit bids or proposals, they could lose opportunities to compete for and receive State contracts. In addition, for small businesses that do attempt to provide the required information, errors or omissions could cause a bid or proposal to be deemed nonresponsive, effectively disqualifying the business from consideration.

The bill's reduced emphasis on price as the primary basis for award may also disadvantage some small businesses. To the extent that small businesses are currently able to compete successfully by offering lower prices, this advantage may carry less weight under the bill, potentially reducing their ability to win contracts.

Finally, the prior performance factor, which accounts for 10 points in the evaluation score, may benefit small businesses that have successfully performed State contracts in the past. Conversely, businesses without an established State contracting history may find that this factor further limits their ability to break into State procurement.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 943 (Senator Charles) - Budget and Taxation.

Information Source(s): Department of Information Technology; University System of Maryland; Department of General Services; Department of Public Safety and Correctional Services; Maryland Department of Transportation; Department of Legislative Services

Fiscal Note History: First Reader - March 4, 2026
js/mcr

Analysis by: Andrew Stover

Direct Inquiries to:
(410) 946-5510
(301) 970-5510